

REMARKS

Claims 49-54, 56-75, 77-88, and 90-99 are currently pending in the application. Claims 49-54, 56-75, 77-88, and 90-99 are rejected. Reconsideration is respectfully requested in view of the following remarks.

Rejections Under 35 U.S.C. § 103

Claims 49-54, 56-75, 77-88, and 90-99 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Date et al. (U.S. Patent No. 5,959,677, hereinafter “Date”) in view of Hejna, Jr. (U.S. Patent No. 7,100,188, hereinafter “Hejna”). Applicant respectfully traverses the rejections in light of the following remarks.

To establish a *prima facie* obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP 2143.03. Applicant respectfully submits that the cited references, taken individually or in combination, do not teach or suggest all the limitations recited in the claims.

For example, Applicant respectfully submits that the cited references, taken individually or in combination, do not teach or suggest a method comprising “transmitting from a server a plurality of notifications for determining a sequence of transmission of said continuous stream of said content via a plurality of communication paths” in combination with the remaining features of claim 49. In rejecting claim 49, the Examiner cites various passages in Date (e.g., col. 3, lines 1-22; col. 5, lines 6-34; col. 7, lines 28-45) as disclosing this feature. Date discloses a system for transmitting digital video/audio signals at a controlled transmission rate on a transmission path. In Date, each multiplexed combination of video/audio signals and digital data is transmitted on a single transmission path. See, e.g., Date, col. 2, lines 53-65. The passages in Date cited by the Examiner merely relate to Date’s techniques for monitoring and controlling the transmission rate for each set of data over its respective transmission path. There is no

teaching or suggestion in Date for determining a sequence of transmission of a continuous stream of content via a plurality of communication paths or for transmitting from a server a plurality of notifications for determining the sequence of transmission. For similar reasons, Date fails to teach or suggest a method comprising “obtaining by a client said plurality of notifications” in combination with the remaining features of claim 49.

Additionally, Applicant respectfully submits that the cited references, taken individually or in combination, do not teach or suggest a method comprising “transmitting from said server said continuous stream of said content via said plurality of communication paths according to said sequence of transmission” in combination with the remaining features of claim 49. In rejecting claim 49, the Examiner cites various passages in Date (e.g., col. 2, lines 46-52; col. 6, lines 45 to col. 7, line 15; col. 7, lines 24-26) as disclosing this feature. Although Date discusses transmitting data across a plurality of transmission paths (e.g., col. 2, lines 46-52; col. 3, lines 19-31), Date’s techniques are directed towards monitoring a maximum transmission rate across the plurality of transmission paths and controlling the transmission rate for individual paths accordingly. In Date, each multiplexed combination of video/audio signals and digital data is still transmitted (with an appropriately controlled transmission rate) on a single transmission path. Furthermore, for at least the reasons discussed above, Date does not teach or suggest transmitting a continuous stream of content via a plurality of communication paths according to a sequence of transmission.

Applicant also respectfully submits that the cited references, taken individually or in combination, do not teach or suggest a method comprising “obtaining by said client said continuous stream of said content by automatically switching communication paths in accordance with said sequence of transmission of said content based on said plurality of obtained notifications” in combination with the remaining features of claim 49. For at least the reasons discussed above, Date fails to teach or suggest automatically switching communication paths in accordance with said sequence of transmission of said content based on said plurality of obtained notifications. Applicant can find no teaching or

suggestion in Hejna for automatically switching communication paths in accordance with said sequence of transmission of said content based on said plurality of obtained notifications.

For at least the reasons discussed above, Applicant respectfully submits that independent claims 49, 73, and 83 are patentably distinct from the cited references.

Furthermore, Applicant respectfully submits that the cited references, taken individually or in combination, do not teach or suggest a method comprising “transmitting an encrypted notification of a communication path on which a part of said content will be transmitted at a given time, wherein said encrypted notification comprises an indication of said given time” and “transmitting another encrypted notification of another communication path on which another part of said content will be transmitted at another given time, wherein said another encrypted notification comprises an indication of said another given time” in combination with the remaining features of claim 58. For at least the reasons discussed above regarding claim 49, neither Date nor Hejna teaches or suggests transmitting notifications of communication paths on which parts of the content will be transmitted at given times. Therefore, Applicant respectfully submits that independent claims 58, 66, 90, and 96 are patentably distinct from the cited references.

Applicant asserts that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the rejection has been shown to be unsupported for the independent claims, a further discussion of the dependent claims is not necessary at this time. Accordingly, Applicant respectfully requests withdrawal of the § 103(a) rejections.

CONCLUSION

In light of the foregoing amendments and remarks, Applicants submit that all pending claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. If a phone interview would speed allowance of any pending claims, such is requested at the Examiner's convenience.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/6000-04802/BNK.

Respectfully submitted,

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